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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,029	05/30/2001	Charles F. Seagren	20206-118 (P99-2579)	6748

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EXAMINER
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PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/870,029

Applicant(s)

SEAGREN ET AL.

Examiner

Jeffrey C. Pwu

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,10,11 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 2-5,8,9 and 12-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112<sup>1st</sup>***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 18 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure lacks clear written description in the description of a determination step in the step “distributing each client connection request by the distributor module to one of the assigned type application servers based on a determination of which application server is currently handling the fewest number of clients”. The disclosure further lacks written description in the step “placing a client connection request on a waiting list until the determination of which application server is currently handling the fewest number of clients is made”?

### ***Claim Rejections - 35 USC § 112<sup>2nd</sup>***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Regarding claim 7, the word "or" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or "), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 6-7, 10-11, and 17-19 are rejected under 35 U.S.C. 102(a) as being anticipated by “Adaptive QoS Support for Distributed, Java-based Applications”, Object-Oriented Real-Time Distributed Computing, 1999. (ISORC '99) Proceedings. 2nd IEEE International Symposium, 2-5 May 1999, by Chatterjee et al. Hereinafter “Chatterjee”.

With respect to Claims 1, 6-7, and 10-11:

Chatterjee teaches a computing system having a plurality of processing elements, each element configured such that, despite a failure of one processing element (page 3, col.2, “3.2 Java Virtual Machine and Resource Agents”), the remaining processing elements continue to function; (abstract, page 1-col. 1-2, page 2-col.2, fig.1)

a plurality of Java-implemented Application Servers, at least one Server assigned to execute on one or more processing elements; (fig.1)

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a distributor module (System manager, ERDoS – End-to-End Resource Management of Distributed Systems) that is configured to capture connection requests from a client on a port, to select one of the plurality of Application Servers to communicate with the requesting client during the connection and to assign the connection request to the selected one of the plurality of Application Servers, such that, after the assignment, the selected Application Server communicates directly with the client, wherein the distributor module is configured to capture client connection requests only for one of a plurality of Application server classes (page 3, col.1 “...The model captures the end-to-end structure of the application...”; page 4, col.2, “...The ERDoS middleware makes the application believe that it is running on a single resource...”)

With respect to Claims 17-19:

Chatterjee teaches a method, comprising:

initializing a distributor module, the distributor module being assigned to distribute client connection requests to only one of a plurality of application server types; (ERDoS – End-to-End Resource Management of Distributed Systems)  
receiving incoming client connection requests by the distributor module; and distributing each client connection request by the distributor module to one of the assigned type of application servers based on a determination of which application server is currently handling the fewest number of clients. (see “ERDoS Architecture”, “Java Virtual Machine and Resource Agents”, and “Application Sevelopment and Installation in ERSoS”)

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***Allowable Subject Matter***

7. Claims 2-5, 8-9, and 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



2/21/06

**JEFFREY PWU**  
**PRIMARY EXAMINER**